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16 Attorneys for Defendants LONGS DRUG
17 STORES CALIFORNIA, INC.; LONGS
18 DRUG STORES CORPORATION; LONGS
19 DRUG STORES CALIFORNIA, L.L.C.,
20 LONGS DRUG STORES, L.L.C., CVS
21 CAREMARK CORPORATION

22 UNITED STATES DISTRICT COURT
23 SOUTHERN DISTRICT OF CALIFORNIA

24 CHARLES JONES, individually, and
25 on behalf of other members of the
general public similarly situated,

Plaintiff,

v.

26 LONGS DRUG STORES
27 CALIFORNIA, INC., a California
corporation; LONGS DRUG STORES
CORPORATION, a Maryland
corporation; LONGS DRUG STORES
CALIFORNIA, L.L.C., a California
limited liability corporation; LONGS
DRUG STORES, L.L.C., a Maryland
limited liability corporation; CVS
CAREMARK CORPORATION, a
Delaware corporation;

Defendants.

Case No.: 08-cv-2156 W NLS

**DEFENDANTS' NOTICE OF
MOTION AND MOTION FOR
SUMMARY JUDGMENT OR
PARTIAL SUMMARY JUDGMENT**

Hearing Date: November 16, 2009
Time: 10:30 a.m.
Room: 7

NO ORAL ARGUMENT PURSUANT
TO LOCAL RULE

[Filed concurrently with Memorandum
of Points and Authorities, Separate
Statement of Undisputed Material Facts,
Request for Judicial Notice,
Declarations of Sandy Reynoso and
Daniel J. McQueen, and [Proposed]
Order]

[Complaint Filed: November 21, 2008]
Trial Date: None Set

NOTICE OF MOTION AND MOTION

2 PLEASE TAKE NOTICE that on November 16, 2009, at 10:30 a.m., or
3 as soon thereafter as this matter may be heard, in Courtroom 7 of the United States
4 District Court for the Southern District of California, located at 880 Front Street,
5 #4290, San Diego, California 92101, the Honorable Thomas J. Whelan presiding,
6 Longs Drug Stores California, Inc., Longs Drug Stores Corporation, Longs Drug
7 Stores California, L.L.C., Longs Drug Stores, L.L.C., and CVS Caremark
8 Corporation (collectively "Defendants") will and hereby do move the Court
9 pursuant to Federal Rule of Civil Procedure 56 for an order granting summary
10 judgment, or alternately, partial summary judgment, in favor of Defendants and
11 against Plaintiff Charles Jones ("Plaintiff").

13 Defendants move for summary judgment, or alternately, partial
14 summary judgment, on the ground that there is no genuine issue of material fact and
15 Defendants are entitled to judgment as a matter of law based on the following:

1. Plaintiff's First Cause of Action for an alleged violation of California Labor Code section 226 fails because Plaintiff's paystubs complied with the statute by showing the total hours worked by Plaintiff, the name and address of Plaintiff's employer, and the last four digits of Plaintiff's social security number or, alternately, Plaintiff's employee identification number. (Separate Statement of Undisputed Material Facts, Facts Nos. 1-7.)
 2. Plaintiff's First Cause of Action for an alleged violation of California Labor Code section 226 fails because Plaintiff did not suffer any injury as a result of his paystubs. (Separate Statement of Undisputed Material Facts, Facts Nos. 8-10.)

- 1 3. Plaintiff's First Cause of Action for an alleged violation of California
2 Labor Code section 226 fails because Defendants did not knowingly
3 and intentionally issue non-compliant paystubs. (Separate Statement
4 of Undisputed Material Facts, Facts Nos. 11-16.)
5
6 4. Plaintiff's First Cause of Action for an alleged violation of California
7 Labor Code section 226 fails because Plaintiff is not a current
8 employee and, therefore, does not have standing to seek injunctive
9 relief on behalf of himself or a putative class. (Separate Statement of
10 Undisputed Material Facts, Fact No. 17.)
11
12 5. Plaintiff's First Cause of Action for an alleged violation of California
13 Labor Code section 226 fails because Plaintiff's paystubs complied
14 with the statute by showing the total hours worked by Plaintiff, the
15 name and address of Plaintiff's employer, and the last four digits of
16 Plaintiff's social security number or, alternately, Plaintiff's employee
17 identification number. As such, there is no allegedly unlawful conduct
18 to enjoin. (Separate Statement of Undisputed Material Facts, Facts
19 Nos. 18-23.)
20

21 Defendants' motion is based upon this Notice of Motion and Motion,
22 the following Memorandum of Points and Authorities, the concurrently filed
23 Declarations of Sandy Reynoso and Daniel J. McQueen, Defendants' Request for
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1 Judicial Notice, all pleadings and papers filed in this action, and such other
2 argument and evidence as the Court may entertain.

3
4 Dated: October 15, 2009

SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

5
6 By


DOUGLAS R. HART
JENNIFER B. ZARGAROF
DANIEL J. McQUEEN
JULIE WONG

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9 Attorneys for Defendants LONGS DRUG
10 STORES CALIFORNIA, INC.; LONGS
11 DRUG STORES CORPORATION; LONGS
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14 CAREMARK CORPORATION

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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles; I am over the age of eighteen years and not a party to the within entitled action; my business address is 333 South Hope Street, 48th Floor, Los Angeles, California 90071-1448.

On **October 19, 2009**, I served the following document(s) described below as:

**DEFENDANTS' NOTICE OF MOTION AND MOTION FOR
SUMMARY JUDGMENT OR PARTIAL SUMMARY JUDGMENT**

on the interested parties as follows:

Marc Primo
Matthew T. Theriault
Dina Livhits
Initiative Legal Group LLP
1800 Century Park East, 2nd Floor
Los Angeles, CA 90067
telephone: 310-556-5637
facsimile: 310-861-9051

- BY CM/ECF SYSTEM:** I caused the above-referenced document(s) to be sent by electronic transmission to the Clerk's Office using the CM/ECF System for filing which generated a Notice of Electronic Filing to the CM/ECF registrants in this case.
 - FEDERAL:** I declare that I am employed in the office of a member of the bar of this Court at whose direction the service was made. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on **October 19, 2009**, at Los Angeles, California.

/s/ Lynda G. Johnson
Lynda G. Johnson